

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PRIEST,

Plaintiff,

v.

MARTIN KUERSTEN, et al.,

Defendants.

No. 2:21-cv-00058-TLN-KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's motion for contempt, sanctions and dispositive relief. (ECF No. 53.) Plaintiff contends that defendants failed to provide a supplemental response to interrogatory no. 2 and failed to deliver requested emails. (Id.)

For the reasons stated herein, plaintiff's motion is denied.

Interrogatory No. 2

On December 7, 2021, the undersigned granted plaintiff's motion to compel regarding interrogatories nos. 2 and 4. (ECF No. 37.) The undersigned ordered defendants to provide plaintiff with supplemental responses to these interrogatories within thirty days. (Id.)

On January 6, 2022, defendants served plaintiff with supplemental responses to interrogatories nos. 2 and 4. (ECF No. 41-2.)

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1 In the pending motion, plaintiff argues that defendants disobeyed the order to provide him
2 with a supplemental response to interrogatory no. 2. (ECF No. 53.) In the reply to defendants'
3 opposition, plaintiff clarifies that defendants failed to provide a supplemental response to the
4 correct interrogatory. (ECF No. 60 at 1.)

5 Plaintiff's claim that defendants responded to the incorrect interrogatory appears to be
6 based on defendants' supplemental response which incorrectly identified interrogatory no. 2 as
7 interrogatory no. 1. (ECF No. 41-2 at 3.) Defendants' supplemental response also incorrectly
8 identified interrogatory no. 4 as interrogatory no. 2. (*Id.* at 4.) However, despite the incorrect
9 numbering of the interrogatories, defendants provided supplemental responses to the correct
10 interrogatories. Plaintiff's claim that defendants did not provide a supplemental response to
11 interrogatory no. 2 is without merit.¹

12 *Emails*

13 Plaintiff argues that defendants failed to deliver emails sought in a request for production
14 of documents. (ECF No. 53.) Discovery is closed so a motion to compel defendants to respond
15 to a request for emails is untimely. In addition, as discussed herein, the record contains no
16 evidence that the undersigned ordered defendants to provide plaintiff with emails.

17 In the December 7, 2021 order, the undersigned denied as overbroad plaintiff's motion to
18 compel a further response to request for production of documents no. 1, in which he sought "all
19 emails sent or received by all defendants" in which plaintiff was mentioned. (ECF No. 37 at 8.)
20 On May 12, 2022, the undersigned denied plaintiff's motion to reopen discovery so that he could
21 conduct discovery regarding the veracity of defendants' claim that they could find no emails
22 responsive to request for production of documents, set two, no. 1. (ECF No. 50 at 4-6.)

23 Plaintiff's claim that defendants failed to provide him with emails is unsupported by the
24 record.

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28 ¹ Plaintiff does not challenge the adequacy of defendants' supplemental responses to
interrogatories nos. 2 or 4.

Conclusion

Plaintiff's motion for contempt, sanctions and dispositive relief is denied because plaintiff's claims that defendants failed to provide a supplemental response to interrogatory no. 2 and failed to provide him with emails are without merit.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for contempt, sanctions and dispositive relief (ECF No. 53) is denied.

Dated: July 27, 2022

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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